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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/721,557	11/22/2000	Mark Moriconi	BEAS-01453US1	5061
23910 7590 04/10/2007 FLIESLER MEYER LLP 650 CALIFORNIA STREET 14TH FLOOR SAN FRANCISCO, CA 94108			EXAMINER PYZOSHA, MICHAEL J	
			ART UNIT 2137	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE			MAIL DATE	
3 MONTHS			04/10/2007	
			DELIVERY MODE PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No. 09/721,557	Applicant(s) MORICONI ET AL.	
	Examiner Michael Pyzocha	Art Unit 2137	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 January 2007.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 57, 58, 63, 64, 72, 73, 81, 82 and 90-95 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 57, 58, 63, 64, 72, 73, 81, 82 and 90-95 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/21/06, 2/7/07, 3/14/07</u> | 6) <input type="checkbox"/> Other: _____  |

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**DETAILED ACTION**

1. Claims 57-58, 63-64, 72-73, 81-82 and 90-95 are pending.
2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 01/29/2007 has been entered.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 57, 63, 72, and 81, rejected under 35 U.S.C. 103(a) as being unpatentable over Brownlie et al. (US 6202157) in view

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of Rogers et al. (US 5557747) in view of Guedalia et al. (US 6148333) and further in view of Archibald et al. (US 5825883).

As per claims 57, 63, 72, and 81, Brownlie et al. discloses a policy manager for creating and distributing a security policy which includes a plurality of rules customized to the client and an application guard for managing access to securable components including at least one application as specified by the security policy (see column 4 lines 16-52; column 5 lines 1-5 and column 3 lines 25-34).

Brownlie fails to disclose the specific global and local policies and allowing or preventing access based on a user request, which includes a subject, an object and a privilege using an application guard within the application.

However, Rogers et al. teaches such global and local policies (see column 8 lines 25-38); Guedalia et al. teaches allowing or preventing access based on a user request, which includes a subject, an object and a privilege (see figures 1 and 2 and column 9 line 45 through column 10 line 30 and column 11 lines 14-65) and Archibald teaches the application guard being integrated into the application (see column 17 lines 45-64 and figure 15).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use global and local

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policies in the Brownlie et al system and to provide access control based on a request to the securable components using an application guard within the application of Brownlie et al.

Motivation to do so would have been to allow policies to be updated based on changed in state (see Rogers Abstract); to control access, track user requests and usage (see Guedalia et al column 4 lines 32-35); and to allow for metering of an applications usage (see Archibald column 17 lines 45-64).

5. Claims 58, 64, 73, and 82 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Brownlie et al., Rogers et al., Guedalia et al. and Archibald et al. system further in view of Luckenbaugh.

As per claims 58, 64, 73, 82, 90, 92 and 94, the modified Brownlie et al., Rogers et al., Guedalia et al. and Archibald et al. system fails to disclose managing access to functions of applications.

However, Luckenbaugh teaches managing access to portions of applications (see Luckenbaugh column 4 line 58 through column 5 line 5 and the abstract), and Official Notice is taken that at the time of the invention it would have been obvious to one of ordinary skill in the art for to monitor portions of applications and for the portions to be functions.

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Motivation to do so would have been to control access to portions of resources capable of running an application (see Luckenbaugh et al column 4 line 58 through column 5 line 5) and that functions are self-contained software routines that perform a specific task.

As per claims 90, 92, and 94 the modified Brownlie et al., Rogers et al., Guedalia et al., Archibald et al. and Luckenbaugh system discloses the application guard further allows for additional customized code to process and evaluate authorization requests based on the additional customized code (see Luckenbaugh column 8 lines 21-40).

6. Claims 91, 93, and 95 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Brownlie et al., Rogers et al., Guedalia et al., Archibald et al. and Luckenbaugh system as applied to claims 90, 92, and 94 above, and further in view of Balassanian (US 6324685).

As claims 91, 93, and 95, the modified Brownlie et al., Rogers et al., Guedalia et al., Archibald et al. and Luckenbaugh system fails to disclose the use of a global policy specifying access privileges.

However, Balassanian teaches such a global policy (see column 5 lines 54-65).

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At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Balassanian's global policy as the modified Brownlie et al., Rogers et al., Guedalia et al., Archibald et al. and Luckenbaugh system's policy.

Motivation to do so would have been that a uniform security policy could be implemented from a single machine (see Balassanian column 5 lines 54-65).

### ***Double Patenting***

7. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

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Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 57, 58, 63, 64, 72, 73, 81, and 82 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 6, 11, 16 and 21 of copending Application No. 11/171104 in view of Guedalia et al. The copending claims disclose all the limitations except preventing access based on a user request, which includes a subject, an object and a privilege and storing the guard within the application. However, Guedalia et al. teaches allowing or preventing access based on a user request, which includes a subject, an object and a privilege (see figures 1 and 2 and column 9 line 45 through column 10 line 30 and column 11 lines 14-65) and Archibald teaches an application guard within the application (see column 17 lines 45-64).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to provide access control based on a request to the securable components and for the application guard to be within the securable components of the copending claims.

Motivation to do so would have been to control access, track user requests and usage (see Guedalia et al column 4 lines



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32-35) and to allow for metering of the application (see Archibald column 17 lines 45-64).

This is a provisional obviousness-type double patenting rejection.

8. Claims 90, 92, and 94 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 11, and 21 of copending Application No. 11/171104 in view of Guedalia et al. and Archibald as applied above and further in view of Luckenbaugh. The modified claims fail to disclose the use of customizable code, however, Luckenbaugh discloses the application guard further allows for additional customized code to process and evaluate authorization requests based on the additional customized code (see Luckenbaugh column 8 lines 21-40).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use customizable code in the modified copending claims.

Motivation to do so would have been to allow for changes to the code.

This is a provisional obviousness-type double patenting rejection.

Claims 91, 93, and 95 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as

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being unpatentable over claims 90, 92, and 94 of copending Application No. 11/171104 in view of Guedalia et al., Archibald and Luckenbaugh as applied above and further in view of Balassanian. The modified claims fail to disclose the use of a global policy specifying access privileges.

However, Balassanian teaches such a global policy (see column 5 lines 54-65).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Balassanian's global policy as the modified copending claims' policy.

Motivation to do so would have been that a uniform security policy could be implemented from a single machine (see Balassanian column 5 lines 54-65).

This is a provisional obviousness-type double patenting rejection.

#### ***Response to Arguments***

9. Applicant's arguments with respect to claims 57-58, 63-64, 72-73, 81-82 and 90-95 have been considered but are moot in view of the new ground(s) of rejection.

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**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Pyzocha whose telephone number is (571) 272-3875. The examiner can normally be reached on 7:00am - 4:30pm first Fridays of the bi-week off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJP

  
**EMMANUEL L. MOISE**  
**SUPERVISORY PATENT EXAMINER**